

GUIDELINES FOR CONDUCTING  
REVIEWS OF ETHICS PROGRAMS AT  
EXECUTIVE BRANCH AGENCIES

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These guidelines are intended to serve as a basic road map for conducting U.S. Office of Government Ethics (OGE) reviews of ethics programs at executive branch departments and agencies. The ethics program reviews are typically scheduled in a program plan for each calendar year which sets forth, by quarter, the departments and agencies to be reviewed and the staff assigned to each review. It should be emphasized that these guidelines are minimal and, where reason dictates, should be exceeded in order to fulfill properly the objective of an ethics review (as described immediately below). This is particularly true as to the performance of the review steps described later in the guidelines.

#### **AUTHORITY AND OBJECTIVE**

The authority for conducting ethics program reviews is found in title IV of the Ethics in Government Act of 1978, as amended, and the implementing regulations at 5 C.F.R. part 2638. Under title IV such authority comes from 5 U.S.C. appendix, § 402(b)(3) and (5), wherein the OGE Director is to monitor and investigate individual and agency compliance with the public and confidential financial disclosure requirements; § 402(b)(9), wherein the OGE Director may order corrective action on the part of agencies and employees; and § 402(f), wherein the processes for carrying out corrective action are prescribed. Under 5 C.F.R. part 2638, OGE is to monitor compliance with the public and confidential reporting requirements (§ 2638.102(a)(4)), and evaluate the effectiveness of

programs designed to prevent conflicts of interest (§ 2638.102(a)(6)). Subparts D and E implement the corrective action authority given to the Director under 5 U.S.C. app., § 402(b)(9) and (f).

With this statutory and regulatory authority as a backdrop, the objective of an ethics program review may be articulated. In simple terms, the purpose of the program review is to determine whether a department or agency has an effective ethics program tailored to the mission of the agency. This includes determining whether the program complies with all applicable ethics statutes, regulations, instructions, and procedures, has an effective program structure with adequate staffing, and has a strong monitoring system with effective enforcement mechanisms and internal controls. Individuals performing a review are to conduct themselves as management consultants rather than investigators.

#### **PRE-REVIEW PREPARATION**

Each ethics program review should be preceded by thorough preparation. This pre-review preparation should commence well in advance of the entrance conference, signifying the commencement of the review. The preparation should basically consist of gathering background information, a review of any pertinent documents, and discussions with knowledgeable individuals at OGE or elsewhere. Background information to be gathered should include the agency's mission, size, budget, etc. Pertinent documents to be reviewed

should include department or agency-related documents filed in the OGE file according to the OGE Records Retention Schedule as administered by OGE's Office of Information Resources Management. In particular, agency correspondence associated with the administration of the ethics program (filed under **ETH 1**) and ethics program review reports (filed under **PRD-Reports**) should be reviewed. The annual Agency Ethics Program Questionnaire (Questionnaire) (filed under **EDU-Training Questionnaire**) should also be reviewed and any discrepancies between the data reported on the Questionnaire and the ethics program review findings should be noted in the working papers for possible inclusion in the report. In addition, the working papers from the previous review, the semiannual agency Inspector General's (IG) report, and any agency-specific legislation should be reviewed.

Discussions with individuals should include a meeting attended by the OGE staff assigned to the review, the OGE desk officer to whom the department or agency to be reviewed is assigned, the Assistant to the Chief of the Program Review Division or the Chief of the Program Review Division, and any other individual at OGE who might be knowledgeable concerning the agency's ethics program. If the Assistant to the Chief or the Chief of Program Review is unable to attend the meeting, the Associate Director for Agency Programs should attend in place of the individual. Beyond OGE, any relevant information which may be gleaned from agency ethics officials when contacting them to announce the review and schedule the entrance conference would be welcomed. During the review, any questions or

problems which arise should promptly be brought to the attention of the Assistant to the Chief, the Chief of Program Review, or the Associate Director for Agency Programs.

All of the preparation, of course, presupposes that there is a working knowledge of all executive branch-wide statutes, orders, and regulations related to ethics.

After establishing the commencement date of the ethics program review with the agency's ethics official, a confirmation letter will be prepared and sent to the designated agency ethics official (DAEO) or the alternate DAEO.

#### **TIME FRAMES**

In general, the number of ethics program reviews scheduled for each team in the program plan for the calendar year should govern the amount of time each team devotes to conducting the fieldwork for each review and writing the report. Within this framework the conduct of the fieldwork should be continuous, not taking longer than four weeks, and the report should be submitted to the Chief of Program Review within four weeks from the end of the fieldwork. The end of the fieldwork will typically be considered to be the date of the department or agency exit conference. If the conduct of the fieldwork and the holding of the exit conference are not continuous in time, the end of the fieldwork will be considered to be the date on which all fieldwork other than the exit conference has been accomplished.

## **REVIEW STEPS**

**Note:** Review will generally focus on the previous calendar year.

### **I. Compliance with Procedural Requirements.**

#### **A. Public financial disclosure system (excluding Special Government employees (SGEs) addressed in I.P. below).**

1. Obtain the written procedures the agency has established, pursuant to section 402(d)(1) of the Ethics in Government Act of 1978, as amended (5 U.S.C. app., § 402(d)(1)), for collecting, reviewing, evaluating, and making publicly available public financial disclosure reports (SF 278).
2. Through a review of the procedures and discussions with ethics officials, determine whether or not the procedures conform with all applicable statutes, regulations, and executive orders.
3. Determine whether or not the agency requires the filing of supplemental confidential financial disclosure reports by public filers under 5 C.F.R. §§ 2634.904(c) and 2634.907(b). If so, determine whether or not:



- a. Supplemental agency regulations have been approved by OGE in accordance with 5 C.F.R. § 2634.103; or
- b. If supplemental agency regulations have not been approved by OGE, supplemental confidential reporting forms and requirements have been approved by OGE in accordance with 5 C.F.R. §§ 2634.601(b) and 2634.901(b).

- 4. As appropriate, obtain copies of the agency's supplemental regulations and reporting forms.

**Note:** Where the ethics program at one or more components of a department is being reviewed, I.A.6. through 12. below should be applied to each component. For example, where the ethics program at the Office of the Secretary, U.S. Mint, U.S. Customs Service, and the Bureau of Engraving and Printing at the Department of Treasury is being reviewed, the complete judgmental sample required by I.A.8. below should be applied to the public reports filed by individuals assigned to each component.

- 5. Determine whether or not the agency is using an electronic SF 278 and, if so:
  - a. Determine whether it is a non-fillable, fillable, or "smart" fillable version of the SF 278; and
  - b. Review the electronic SF 278 to ensure that:

- (1) It precisely duplicates (to the extent technically possible) the original SF 278;
- (2) It represents the most recent edition, or allowable previous edition, of the SF 278;
- (3) If it varies from the original SF 278 (e.g., continuation pages not included in the original form, etc.), it has been approved by OGE and the General Services Administration (GSA); and
- (4) If it is a "smart" fillable version, it has been approved by OGE, GSA, and the Office of Management and Budget (OMB)<sup>1</sup> and the series of questions or prompts are complete, accurate, and logical.

**Note:** Likewise, where non-electronically-generated SF 278s are being used, ensure that they are the most recent edition, or allowable previous edition, of the form and, where apparent copies of an original SF 278 are being used, ensure that they precisely duplicate the original SF 278.

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<sup>1</sup>OMB approval is required unless nine or fewer private citizens (including new entrants and terminees) are reasonably expected to use the form per year.

6. Obtain a master list of individuals required to file public financial disclosure reports and, as appropriate, the corresponding supplemental confidential reports during the previous calendar year. In addition, if there is doubt as to the completeness or accuracy of the master list, independently verify its completeness or accuracy (e.g., with the personnel or payroll office, against an agency directory, etc.).
7. Through a review of the master list and discussions with ethics officials, determine whether or not reports generally have been filed as required in a timely manner in accordance with 5 U.S.C. app., § 101, 5 C.F.R. § 2634.201, the written agency procedures, and, as appropriate, the supplemental agency regulations (by no later than May 15 for annual filers or 30 days after entering or leaving a covered position).
8. Through discussions with ethics officials and others involved in the development of the master list, determine what mechanisms, if any, are in place to identify individuals within 30 days of their entering or leaving a covered position and to provide those individuals with the required financial disclosure report.

9. Using the master list, select a judgmental sample of 20% of the public reports including, as appropriate, the corresponding supplemental confidential reports, or 50 public reports including, as appropriate, the 50 corresponding supplemental confidential reports, whichever is greater. When 20% of the universe exceeds the number necessary to determine a consistent pattern, the Assistant to the Chief or the Chief of Program Review can authorize an adjustment in the number of reports to be reviewed.

**Note:** If an agency has less than 50 reports which were required to be filed during the previous calendar year, all of the reports must be reviewed. Also, the sample selected need not include reports which must be forwarded to and reviewed by OGE.

10. Through discussions with ethics officials, determine the status of any reports which could not be obtained.
11. If available, obtain the list(s) for the previous calendar year of contractors, grantees, regulatees, prohibited companies, etc., with whom the agency does business or which could be affected by agency actions.

12. Review the reports which have been obtained, using any such list of contractors, etc., to ensure that the reports:

- a. Have been filed in a timely manner;
- b. Have been reviewed by the agency by no later than 60 days after being filed, in accordance with 5 U.S.C. app., § 106(a)(1), 5 C.F.R. § 2634.605, the written agency procedures, and, as appropriate, the supplemental agency regulations;

**Note:** A report which has not been signed by a reviewing official by the 61st day after being filed pending the receipt of requested additional information generally will be considered to have been reviewed within the 60-day period.

- c. Are complete and accurate in accordance with 5 U.S.C. app., § 102, subpart C of 5 C.F.R. part 2634, the SF 278 instructions, the written agency procedures, and, as appropriate, the supplemental agency regulations; and
- d. Reveal no actual or potential violations of the substantive restrictions in II. below.

**B. Confidential financial disclosure system (excluding SGEs addressed in I.P. below).**

**Note:** Where the administration of the confidential reporting system has been delegated by an agency's central ethics office, the steps which follow shall apply to each administrative unit whose system is being reviewed.

1. Obtain the written procedures the agency has established, pursuant to 5 U.S.C. app., § 402(d)(1), for collecting, reviewing, and evaluating confidential financial disclosure reports (OGE Form 450).
2. Through a review of the procedures and discussions with ethics officials, determine whether or not the procedures conform with all applicable statutes, regulations, and executive orders.
3. Through discussions with ethics officials, determine whether or not the agency allows the filing of confidential certificates of no new interests (OGE Optional Form 450-A) in accordance with 5 C.F.R. § 2634.905(d).
4. Determine whether or not the agency has established supplemental confidential financial disclosure reporting requirements. If so, determine whether or not:
  - a. Supplemental agency regulations have been approved by OGE in accordance with 5 C.F.R. § 2634.103; or

- b. If supplemental agency regulations have not been approved by OGE, supplemental confidential reporting forms and requirements have been approved by OGE in accordance with 5 C.F.R. §§ 2634.601(b) and 2634.901(b).
- 5. As appropriate, obtain copies of the agency's supplemental regulations and reporting forms.
- 6. Determine whether or not the agency is using an electronic OGE Form 450 or OGE Optional Form 450-A and, if so:

OGE Form 450

- a. Determine whether it is a non-fillable, fillable, or "smart" fillable version of the OGE Form 450; and
- b. Review the electronic OGE Form 450 to ensure that:
  - (1) It precisely duplicates (to the extent technically possible) the original OGE Form 450;
  - (2) It represents the most recent edition, or allowable previous edition, of the OGE Form 450;
  - (3) If it varies from the original OGE Form 450 (e.g., continuation pages not included in the original form, etc.), it has been approved by OGE; and

- (4) If it is a "smart" fillable version, it has been approved by OGE and OMB<sup>2</sup> and the series of questions or prompts are complete, accurate, and logical.

OGE Optional Form 450-A

- a. Ensure that it precisely duplicates (to the extent technically possible) the original OGE Optional Form 450-A);
- b. Ensure that it represents the most recent edition, or allowable previous edition, of the OGE Optional Form 450-A; and
- c. If it varies from the original OGE Optional Form 450-A, it has been approved by OGE.

**Note:** Likewise, where non-electronically-generated OGE Form 450s or OGE Optional Form 450-As are being used, ensure that they are the most recent edition, or allowable previous edition, of the form and, where apparent copies of an original OGE Form 450 or OGE Optional Form 450-A are being used, ensure that they precisely duplicate the original form, as applicable.

7. Through discussions with ethics officials, determine whether or not the agency has excluded any individuals or class of individuals from all or

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<sup>2</sup>See footnote 1.



a portion of the confidential reporting requirements through the use of an alternative reporting procedure which has been approved by OGE in accordance with 5 C.F.R. § 2634.905(c).

8. As appropriate, obtain a copy of the agency's alternative reporting procedure and the certification being used.

**Note:** If you find that the agency has an alternative reporting procedure, discuss with the Assistant to the Chief or the Chief of Program Review the appropriate review steps to be followed.

9. Discuss with ethics and program officials the sufficiency of coverage or possible overcoverage of positions whose incumbents are required to file OGE Form 450s and, as appropriate, OGE Optional Form 450-As in accordance with 5 C.F.R. §§ 2634.904 and 2634.905(d).
10. Obtain a master list of individuals required to file OGE Form 450s and, as appropriate, OGE Optional Form 450-As and supplemental confidential reports during the previous calendar year. If there is doubt as to the completeness or accuracy of the list, independently verify its completeness or accuracy (e.g., with the personnel or payroll office, against an agency directory, etc.).

11. Through a review of the master list and discussions with ethics officials, determine whether or not reports generally have been filed as required in accordance with 5 C.F.R. § 2634.903 and the written agency procedures, and, as appropriate, 5 C.F.R. § 2634.905(d) and the supplemental agency regulations (by no later than October 31 for annual filers or, except for OGE Optional Form 450-A filers who can only file annually, 30 days after entering a covered position).
12. Through discussions with ethics officials and others involved in the development of the master list, determine what mechanisms, if any, are in place to identify individuals within 30 days of their entering a covered position and to provide those individuals with the required confidential reporting form.
13. Using the master list, select a judgmental sample of:
  - a. 20% of the OGE Form 450s and, as appropriate:
    - (1) 20% of the OGE Optional Form 450s; and
    - (2) All of the supplemental confidential reports which correspond to the OGE Form 450s selected
  - or
  - b. 50 OGE Form 450s and, as appropriate:

- (1) 50 OGE Optional Form 450-As; and
- (2) All of the supplemental confidential reports which correspond to the OGE Form 450s selected,

whichever is greater.

**Note:** If an agency has less than 50 OGE Form 450s (or less than 50 OGE Optional Form 450-As) which were required to be filed during the previous calendar year, all of the OGE Form 450s (and/or Optional Form 450-As) must be reviewed. Moreover, when 20% of the universe exceeds the number necessary to determine a consistent pattern, the Assistant to the Chief or the Chief of Program Review can authorize an adjustment in the number of reports to be reviewed.

14. Through discussions with ethics officials, determine the status of any OGE Form 450s and Optional Form 450-As which could not be obtained.
15. Review the OGE Form 450s and, as appropriate, the supplemental confidential reports which have been obtained, using the list of contractors, etc. obtained in I.A.10. above, if available, to ensure that the reports:
  - a. Have been filed in a timely manner;
  - b. As appropriate, have been reviewed by the agency in a timely manner; or by no later than

60 days after being filed, in accordance with 5 C.F.R. § 2634.605, the written agency procedures, and, as appropriate, the supplemental agency regulations;

**Note:** A report which has not been signed by a reviewing official by the 61st day after being filed pending the receipt of requested additional information generally will be considered to have been reviewed within the 60-day period.

c. Are complete and accurate in accordance with 5 C.F.R. § 2634.907(a), the OGE Form 450 instructions, the written agency procedures, and, as appropriate, the supplemental agency regulations; and

d. Reveal no actual or potential violations of the substantive restrictions in II. below.

16. Review the OGE Optional Form 450-As which have been obtained to ensure that:

a. They have been treated as a confidential document, in accordance with 5 C.F.R. §§ 2634.604(b) and 2634.901(d);

b. They have only been filed by regular employee annual filers (not new entrants or SGEs);

c. They have been completed and signed by the filers;

d. They have been filed in a timely manner; and

- e. An OGE Form 450 has been filed within the preceding three years or, if use of the OGE Optional Form 450-A has been limited by the agency, within the preceding one or two year(s).<sup>3</sup>

**C. Ethics agreements.**

- 1. Identify all of the ethics agreements associated with the financial disclosure reports reviewed in I.A. and B. above.
- 2. Through discussions with ethics officials and a review of pertinent documents, ensure that:
  - a. The actions necessary to comply with the ethics agreements (i.e., waivers, disqualifications (recusals), divestitures, resignations from non-Federal positions, reassignments, and blind trusts) have been taken within three months from the date of each ethics agreement, in accordance with 5 C.F.R. § 2634.802(b);

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<sup>3</sup>To ensure the currency of reported information in order to prevent and detect conflicts of interest, filers may only use the OGE Optional Form 450-A for a maximum of three consecutive years before being required to file another OGE Form 450 in the fourth year. However, agencies may choose to further limit use of the OGE Optional Form 450-A to two consecutive years or even one year before another OGE Form 450 is required.

- Note:** In the absence of any such agreements to review, determine whether or not the agency has a process for ensuring that the three-month deadline can be met.
- b. Where an ethics agreement has been made with someone other than the DAEO, the individual involved has promptly apprised the DAEO of the ethics agreement, in accordance with 5 C.F.R. § 2634.803(d); and
  - c. Where an ethics agreement has been made by an individual other than a nominee to or incumbent in a position requiring the advice and consent of the Senate, the individual involved has promptly sent evidence of action taken under 5 C.F.R. § 2634.804(b) to the DAEO, in accordance with 5 C.F.R. § 2634.804(a)(3).
3. Obtain all of the 18 U.S.C. § 208(b)(1) waivers, written notifications of divestiture/resignation, and, as required to be in writing by the agency (either informally or by agency regulation supplementing 5 C.F.R. part 2635), written disqualifications (recusals) under 5 C.F.R. §§ 2635.402(c), 2635.502(e), and 2635.604(a) associated with the ethics agreements identified in I.C.1. above, as well as any disqualifications and

waivers associated with individuals who are appointed by the President with confirmation by the Senate.

4. Through discussions with ethics officials and a review of the waivers, notifications, and disqualifications, ensure that:

a. The waivers have been granted in accordance with 5 C.F.R. § 2635.402(d)(4) and subpart C of part 2640 and maintained for public inspection in accordance with 18 U.S.C. § 208(d)(1) and 5 C.F.R. § 2640.304;

b. If any waivers have been granted in regard to employees serving on a board of directors of a non-Federal nonprofit entity in their official capacity, assessments were made as to the propriety of the employees serving in their official capacity, the agency's payment of dues or other expenses, employee participation in fund-raising, or the use of Government resources in fulfilling board responsibilities.<sup>4</sup>

c. The disqualifications have been devised in accordance with 5 C.F.R. § 2634.804(b)(1). In particular, ensure that each disqualification

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<sup>4</sup>See OGE DAEOgram #DO-97-027, dated June 11, 1997 and entitled "Waiver consultations under 18 U.S.C. § 208(b)."

lists and describes the specific matters or subjects to which the disqualification applies, a statement of the method by which the agency will enforce the disqualification, and a list of the positions of those agency employees involved in the enforcement (i.e., the individual's immediate subordinates and supervisors);

d. The written notifications of divestiture/resignation are in accordance with ethics agreements; and

e. They reveal no actual or potential violations of the substantive restrictions in II. below.

5. Through discussions with ethics officials, determine whether they have declined waiver requests in regard to employees serving on a board of directors of a non-Federal nonprofit entity in their official capacity but, nevertheless, allowed the employees to serve. If so, ensure that assessments were made as to:

a. The propriety of the employees serving in their official capacity, the agency's payment of dues or other expenses, employee participation in fund-raising, or the use of Government resources in fulfilling board responsibilities; and/or



- b. Whether service on the board is expressly authorized by statute, or whether applicable state law has waived fiduciary obligations.

**Note:** If not enough waivers (including, as appropriate, waiver requests), notifications, or disqualifications are obtained to make a sufficient assessment here or pursuant to II. below, obtain and review any additional waivers (or requests), notifications, or disqualifications granted or executed during the preceding calendar year and, as necessary, the next preceding calendar year.

**D. Written exemptions from subpart B of 5 C.F.R. part 2635, pursuant to 5 C.F.R. § 2635.104(c), for employees detailed to non-Federal entities.**

1. Obtain all written exemptions from the restrictions of subpart B which were issued during the previous calendar year.
2. Through discussions with ethics officials and a review of the exemptions, ensure that such exemptions have been granted in accordance with 5 C.F.R. § 2635.104(c).

**E. Written determinations allowing the acceptance of gifts with a value in excess of \$200 or cash or an investment interest for meritorious public service, or an honorary degree from an institution of higher education, pursuant to 5 C.F.R. § 2635.204(d) .**

1. Obtain all written determinations approving the acceptance of such gifts and honorary degrees which were issued during the previous calendar year.
2. Through discussions with ethics officials and a review of the determinations, ensure that such determinations:
  - a. Have been made in accordance with 5 C.F.R. § 2635.204(d)(1) for gifts with a value in excess of \$200 or cash or an investment interest, or § 2635.204(d)(2) for honorary degrees; and
  - b. Reveal no actual or potential violations of the substantive restrictions in II. below.

**F. Written determinations of agency interest in authorizing employees to attend widely attended gatherings of mutual interest to the agency and others, as well as written authorizations for accompanying spouses at these and other events, pursuant to 5 C.F.R. § 2635.204(g) .**

1. Obtain all written determinations of agency interest in employees' attendance at widely

attended gatherings which were issued during the previous calendar year.

2. Obtain all written authorizations for employees to accept an invitation from a sponsor or nonsponsor, subject to appropriate limitations, for an accompanying spouse or other guest to participate in all or part of an event at which the employee's participation is as a speaker or at a widely attended gathering.
3. Through discussions with ethics officials and a review of the determinations/authorizations, ensure that such determinations/authorizations:
  - a. Have been made in accordance with 5 C.F.R. § 2635.204(g)(3) for employees, or § 2635.204(g)(6) for accompanying spouses or other guests; and
  - b. Reveal no actual or potential violations of the substantive restrictions in II. below.

**G. Written authorizations for employees to participate in particular matters involving specific parties which raise the question of impartiality in the mind of a reasonable person, pursuant to 5 C.F.R. § 2635.502(d).**

1. Obtain all written authorizations for employees to participate in particular matters involving specific parties, which raise the question of

impartiality, which were issued during the previous calendar year.

2. Through discussions with ethics officials and a review of the authorizations, ensure that such authorizations:
  - a. Have been made in accordance with 5 C.F.R. § 2635.502(d); and
  - b. Reveal no actual or potential violations of the substantive restrictions in II. below.

**H. Written waivers of the disqualification requirement related to extraordinary payments from former employers, pursuant to 5 C.F.R. 2635.503(c) .**

1. Obtain all written waivers of the disqualification requirement related to extraordinary payments from former employers which were issued during the previous calendar year; and
2. Through discussions with ethics officials and a review of the waivers, ensure that such waivers:
  - a. Have been made in accordance with 5 C.F.R. § 2635.503(c); and
  - b. Reveal no actual or potential violations of the substantive restrictions in II. below.

**I. Written authorizations permitting an employee to participate in a particular matter affecting the financial interest of a prospective employer with whom the employee seeks employment and where a reasonable person would be likely to question the employee's impartiality, pursuant to 5 C.F.R. § 2635.605(b).**

1. Obtain all written authorizations permitting employees to participate in particular matters affecting the financial interests of prospective employers, raising questions of impartiality, which were issued during the previous calendar year.
2. Through discussions with ethics officials and a review of the authorizations, ensure that such authorizations:
  - a. Have been made in accordance with 5 C.F.R. §§ 2635.605(b) and 2635.502(d); and
  - b. Reveal no actual or potential violations of the substantive restrictions in II. below.

**J. Advance authorization for employees to engage in certain outside employment and activities, as required by the agency pursuant to 5 C.F.R. § 2635.803.**

1. Obtain all of the written authorizations to engage in such outside employment and activities associated with the financial disclosure reports reviewed in I.A. and B. above.

2. Through discussions with ethics officials and a review of the authorizations, ensure that such outside employment and activities:
  - a. Have been authorized in advance according to 5 C.F.R. § 2635.803 and any agency regulation supplementing 5 C.F.R. part 2635; and
  - b. Reveal no actual or potential violations of the substantive restrictions in II. below.

**Note:** If not enough written authorizations are obtained to make a sufficient assessment here or pursuant to II. below, obtain and review any additional authorizations granted during the preceding calendar year and, as necessary, the next preceding calendar year and other years.

**K. Advance written authorization to engage in teaching for compensation by covered noncareer employees at levels above GS-15, pursuant to 5 U.S.C. app., § 502(a)(5) as implemented by 5 C.F.R. § 2636.307.**

1. Obtain all of the written authorizations to engage in such teaching by noncareer employees at levels above GS-15 (along with the corresponding written requests) which were issued during the previous calendar year.

2. Through discussions with ethics officials and a review of the authorizations, ensure that such teaching:
  - a. Has been authorized in accordance with 5 C.F.R. § 2636.307; and
  - b. Reveals no actual or potential violations of the substantive restrictions in II. below.

**L. Written opinions/counseling.**

1. Select a sufficient judgmental sample of opinions/counseling issued during the previous calendar year addressing various ethics matters (e.g., gifts, invitations, conflicts of interest, outside employment, seeking employment, post-employment, etc.) to make an assessment pursuant to I.L.2. and II. below.
2. Through discussions with ethics officials and a review of the opinions/counseling rendered, ensure that:
  - a. A counseling program for agency employees concerning all ethics and standards of conduct matters, including post-employment matters, has been developed and conducted in accordance with 5 C.F.R. § 2638.203(b) (7);
  - b. Records have been kept, where appropriate, on advice rendered in accordance with 5 C.F.R.

§ 2638.203(b) (8) and advice on honoraria has been properly documented according to 5 C.F.R. § 2636.103(b);

- c. Copies of written opinions issued by the DAEO concerning the application of 18 U.S.C. §§ 202-209 have been transmitted to OGE in accordance with 5 C.F.R. § 2638.313; and
- d. The opinions/counseling rendered reveals no actual or potential violations of the substantive restrictions in II. below.

**M. Acceptance of travel and related expenses from non-Federal sources, pursuant to 31 U.S.C. § 1353.**

- 1. Obtain from OGE's Education and Program Services Division, for the agency being reviewed, a copy of the most recent semiannual report to OGE of payments for travel and related expenses accepted from non-Federal sources pursuant to 31 U.S.C. § 1353.
- 2. Using the semiannual report as a basis for discussions with the OGE desk officer to whom the department or agency being reviewed is assigned, determine:
  - a. The desk officer's understanding of the agency's process for authorizing such travel



- and related expenses and compiling the semiannual report;
  - b. Whether the desk officer identified any problems on the semiannual report; and
  - c. Whether the desk officer identified any problems the agency experienced in compiling the semiannual report.
3. Through discussions with ethics officials or other appropriate officials at the agency, review the agency's process for compiling the semiannual report by determining:
- a. Who is responsible for collecting the information to be reported, drafting the semiannual report, and forwarding the report to OGE; and
  - b. Whether an ethics official reviews the semiannual report before it is submitted to OGE.
4. Determine whether or not the agency has any written procedures implementing 41 C.F.R. part 304-1. If so, determine whether the procedures are in compliance with part 304-1.
5. Select a judgmental sample of 20% of the written authorizations to accept travel and related expenses which were issued during the previous calendar year, or 50 written authorizations,

whichever is greater. When 20% of the universe exceeds the number necessary to determine a consistent pattern, the Assistant the Chief or the Chief of Program Review can authorize an adjustment in the number of authorizations to be reviewed.

**NOTE:** If an agency has less than 50 written authorizations during the previous calendar year, all of the authorizations must be reviewed. Also, the judgmental sample may include authorizations for payments which were identified on the semiannual report. Finally, where the universe cannot be identified with sufficient confidence, payments for the previous calendar year found on the semiannual reports may be used as the basis for selecting the judgmental sample of authorizations.

6. If written authorizations are not required, through discussions with ethics officials or other agency officials, determine how authorizations to accept travel and related expenses occur in the absence of documentation.
7. Review the written authorizations which have been obtained to ensure that each authorization:
  - a. Has been authorized by officials at as high an administrative level as practical, in accordance with 41 C.F.R. § 304-1.3(c), and

coordinated with ethics officials, as appropriate;

- b. Is for a meeting or similar function which the employee has been authorized to attend in an official capacity on behalf of the agency, in accordance with 41 C.F.R. §§ 304-1.3(a), 304-1.2(c)(3), and 304-1.4;
- c. Is for travel and related expenses which have been accepted from a non-Federal source which is not disqualified on the basis of a conflict of interest analysis made in accordance with 41 C.F.R. § 304-1.5;
- d. Has been for payment in kind or by check or similar instrument, in accordance with 41 C.F.R. §§ 304-1.2(c)(5) and 304-1.6;
- e. If for an accompanying spouse, has been approved in accordance with 41 C.F.R. § 304-1.3(b);
- f. If in excess of \$250, the payment related to such authorization has been reported to OGE (or, if prior to the reporting deadline, will be reported to OGE) in accordance with 41 C.F.R. § 304-1.9; and
- g. Reveals no actual or potential violations of the substantive restrictions in II below.

**N. Acceptance of travel and related expenses from 26 U.S.C. § 501(c)(3) organizations (and others to which the prohibitions of 18 U.S.C. § 209 do not apply), pursuant to 5 U.S.C. § 4111.**

1. Obtain all of the written authorizations to accept such travel associated with the financial disclosure reports reviewed in I.A. and B. above.
2. Through discussions with ethics officials and a review of the authorizations, ensure that such travel:
  - a. Has been authorized by the agency head or his or her designee, in accordance with 5 C.F.R. § 410.502;
  - b. Moreover, has been authorized in writing, for which records have been maintained, in accordance with 5 C.F.R. §§ 410.501 et seq; and
  - c. Reveals no actual or potential violations of the substantive restrictions in II. below.

**Note:** If not enough written authorizations are obtained to make a sufficient assessment here or pursuant to II. below, obtain and review any additional authorizations granted during the preceding calendar year and, as necessary, the next preceding calendar year and other years.

**O. Education and training conducted pursuant to subpart G of  
5 C.F.R. part 2638.**

1. Through discussions with ethics officials, determine whether a written plan for annual ethics training for the current calendar year, beginning with the 1998 calendar year, was completed by the beginning of the calendar year, in accordance with 5 C.F.R. § 2638.702(c).
2. Obtain a copy of the annual training plan to ensure that it includes:
  - a. An estimate of the number of public filers described in 5 C.F.R. § 2638.704(b)(3) who must be provided annual ethics briefings, including:
    - (1) An estimate of the number of public filers to whom annual ethics briefings will be presented verbally with a qualified individual present, in accordance with § 2638.704(d)(2)(ii);
    - (2) An estimate of the number of public filers to whom annual ethics briefings will be presented under the exception provided at § 2638.704(d)(2)(iii)(A); and
    - (3) An estimate of the number of SGEs who are public filers to whom the annual ethics briefings will be presented under the

exception provided at  
§ 2638.704(d) (2) (iii) (B); and

b. An estimate of the number of covered employees other than public filers described in § 2638.704(b) (3) who must be provided annual ethics briefings, including:

- (1) An estimate of the number of covered employees who will receive a verbal annual ethics briefing, in accordance with § 2638.704(d) (3) (ii);
- (2) An estimate of the number of covered employees who will receive a written ethics briefing, in accordance with § 2638.704(d) (3) (i);
- (3) An estimate of the number of covered employees who will receive a written ethics briefing under the exception provided at § 2638.704(d) (3) (iii) (A);
- (4) An estimate of the number of SGEs and the number of officers in the uniformed services who will receive a written ethics briefing under the exceptions provided at § 2638.704(d) (3) (iii) (B) and (d) (3) (iii) (C); and

(5) An estimate of the number of covered employees who will receive a written ethics briefing under the exception provided at § 2638.704(d) (3) (iii) (D) .

3. Through discussions with ethics officials, a review of any pertinent documents (including any means of verifying that each new employee receives an initial agency ethics orientation required by 5 C.F.R. § 2638.703 within 90 days of the employee's entrance on duty), and, if possible, monitoring one or more initial agency ethics orientations, ensure that:

a. Each new employee is allotted a minimum of one hour of official duty time for the purpose of permitting the employee to review the written materials (and/or received annual verbal ethics training), in accordance with 5 C.F.R. § 2638.703(a) (3); and

b. Whether the initial agency ethics orientation is a review by each new employee of the required ethics materials identified in § 2638.703(a) or (b):

(1) Copies of 5 C.F.R. part 2635 and any agency supplemental regulation and the names, titles, office addresses, and telephone numbers of the DAEO and other

agency ethics officials available to answer questions regarding the employee's ethical responsibilities are given to each employee, in accordance with § 2638.703(a)(1) and (2); or

(2) In lieu of giving each employee a copy of part 2635:

(a) Copies of part 2635 and any agency supplemental regulation are furnished to each employee for review only, provided that copies of the complete text of part 2635 and any agency supplemental regulation are retained and readily accessible in the employee's immediate office, in accordance with § 2638.703(b)(1); or

(b) Materials which summarize part I of Executive Order 12674, as modified by Executive Order 12731, part 2635, and any agency supplemental regulation are provided to each employee, provided that copies of the complete texts of part 2635 and any agency supplemental regulation are retained and readily accessible



in the employee's immediate office  
for use by several employees, in  
accordance with § 2638(b) (2).

4. Through discussions with ethics officials, a review  
of pertinent documents, and, if possible,  
monitoring one or more annual ethics briefings,  
ensure that:

a. Each employee covered under 5 C.F.R.  
§ 2638.704(b) (3) is allotted a minimum of one  
hour of official duty time for the purpose of  
attending an annual verbal ethics briefing, in  
accordance with § 2638.704(a), (c), (d) (1) (i)-  
(ii), and (d) (2) (i)-(ii) (except where it is  
impractical to provide an annual verbal ethics  
briefing or for SGEs, in accordance with  
§ 2638.704(d) (2) (iii));

b. Each employee covered other than under  
§ 2638.704(b) (3):

(1) Is allotted a minimum of one hour of  
official duty time, once every three  
calendar years, for the purpose of  
attending an annual verbal ethics  
briefing, in accordance with  
§ 2638.704(a), (c), (d) (1) (i)-(ii), and  
(d) (3) (ii) (except where it is  
impractical to provide a verbal briefing

once every three calendar years or for SGEs, in accordance with § 2638.704(d)(2)(iii));

(2) Annually receives, up to two out of every three calendar years, a written ethics briefing, in accordance with § 2638.704(a), (c), (d)(1)(iii), and (d)(3)(i);

(3) As an alternative to receiving an annual verbal ethics briefing once every three calendar years, receives every calendar year an annual written ethics briefing, in accordance with § 2638.704(a), (c), (d)(1)(iii), and (d)(3)(i), if, in accordance with § 2638.704(d)(3)(iii):

(a) The DAEO or his or her designee has determined in writing that it is impractical to provide an annual verbal ethics briefing at least once every three calendar years;

(b) The employee is an SGE who is expected to work fewer than 60 days in a calendar year;

- (c) The employee is a uniformed officer who serves on active duty for 30 or fewer consecutive days; or
  - (d) The employee is covered solely because of agency discretionary designation under § 2638.704(b) (6); and
- (4) Beginning in calendar year 1997, there is a means of verifying the type of annual ethics briefing each employee receives (i.e., verbal or written) and, beginning in calendar year 1999, such information covering at least the prior two calendar years can be retrieved.

**P. Special Government employees (SGEs).**

- 1. Through discussions with ethics officials and a review of pertinent documents:
  - a. Identify the types of individuals who serve the agency for 130 days or less during any period of 365 days (i.e., serve temporarily on either a full-time, intermittent, or part-time basis);
  - b. Identify any committees, councils, commissions, etc. which advise the agency and

are comprised of individuals identified in I.P.1.a. above; and

**Note:** A pertinent document to review, in this regard, would be the GSA's Annual Report of the President on Federal Advisory Committees.

- c. Ensure that a determination was made as to whether these types of individuals are SGEs in accordance with 18 U.S.C. § 202(a) and OGE Informal Advisory Memorandum 82x22.
2. Through discussions with ethics officials and a review of pertinent documents, for the previous calendar year:
    - a. Identify all SGE's who served as members of advisory committees, as experts/consultants, or in other capacities; and
    - b. Ensure that a determination was made as to whether each SGE was required to file a financial disclosure report<sup>5</sup> in accordance with, as appropriate, 5 C.F.R. §§ 2634.903 and 2634.904 (for confidential filers) and §§ 2634.201 and 2634.202 (for public filers).

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<sup>5</sup>If the agency is using electronic financial disclosure for SGEs which has not been reviewed at I.B.6.(excluding the OGE Optional Form 450-A) and/or I.A.5. above, either because none is being used for regular employees or it is not the same, those review steps should be followed, as applicable.

3. Obtain the master list(s) of SGEs required to file public and confidential financial disclosure reports during the previous calendar year.
4. Through a review of the master list(s) and discussions with ethics officials, determine whether or not reports generally have been filed as required in a timely manner in accordance with 5 C.F.R. § 2634.903 (for confidential filers) and 5 C.F.R. § 2634.201 (for public filers).
5. Obtain all of the financial disclosure reports or a sufficient judgmental sample of the reports to make an assessment pursuant to I.P.7. below.
6. Through discussions with ethics officials, determine the status of any reports that could not be obtained.
7. Review the reports which have been obtained, using the list of contractors, etc. obtained in I.A.10. above, if available, to ensure that the reports:
  - a. Have been filed in a timely manner;
  - b. Have been reviewed by the agency:
    - (1) For confidential filers, by no later than 60 days after being filed, in accordance with 5 C.F.R. § 2634.605 and the written agency procedures; or
    - (2) For public filers, by no later than 60 days after being filed, in accordance

with 5 U.S.C. app., § 106(a) (1), 5 C.F.R. § 2634.605, and the written agency procedures;

c. Are complete and accurate in accordance with:

(1) For confidential filers, 5 C.F.R. § 2634.907(a) and the OGE Form 450 instructions; or

(2) For public filers, 5 U.S.C. app., § 102, subpart C of 5 C.F.R. part 2634, and the SF 278 instructions; and

d. Reveal no actual or potential violations of the substantive restrictions described in II. below.

8. 18 U.S.C. § 208(b) (1) and (3) waivers and written disqualifications (recusals).

a. Obtain all of the § 208(b) (1) and (3) waivers and, as required to be in writing by the agency (either informally or by agency regulation supplementing 5 C.F.R. part 2635), written disqualifications under 5 C.F.R. §§ 2635.402(c), 2635.502(e), and 2635.604(a) associated with the financial disclosure reports reviewed in I.P.7. above.

b. Through discussions with ethics officials and a review of the waivers and disqualifications, ensure that:

- (1) The waivers have been granted in accordance with 5 C.F.R. § 2635.402(d)(4) and subpart C of part 2640 and maintained for public inspection in accordance with 18 U.S.C. § 208(d)(1) and 5 C.F.R. § 2640.304;
- (2) The disqualifications have been devised in accordance with 5 C.F.R. § 2634.804(b)(1). In particular, ensure that each disqualification lists and describes the specific matters or subjects to which the disqualification applies, a statement of the method by which the agency will enforce the disqualification, and a list of the positions of those agency employees involved in the enforcement (i.e., the individual's immediate subordinates and supervisors); and
- (3) They reveal no actual or potential violations of the substantive restrictions in II. below.

**Note:** If not enough waivers or disqualifications are obtained to make a sufficient assessment here or pursuant to II. below, obtain and review any additional waivers or disqualifications granted or

executed during the preceding calendar year and, as necessary, the next preceding calendar year and other years.

9. Counseling and education and training.

Following basically I.L. and O. above, ensure that the counseling and education and training of SGEs comply with 5 C.F.R. §§ 2638.203(b)(7) and (8), 2638.313, 2638.703, and 2638.704.

**Q. Agency reports to OGE, pursuant to 5 U.S.C. app., § 402(e)(2), of referrals of violations of criminal conflict of interest statutes to the Department of Justice in accordance with 28 U.S.C. § 535.**

1. Through discussions with appropriate officials and a review of any pertinent documents, ensure that OGE is concurrently notified of all referrals of violations of criminal conflict of interest statutes (18 U.S.C. §§ 203, 205, 207, 208, and 209) to the Department of Justice, in accordance with 5 C.F.R. § 2638.603(b), by determining:

a. The identity of the organizational unit(s) at the agency that are making referrals to the Attorney General (e.g., the office of the IG, DAEO's office, etc.);



- b. The identity of the organizational unit(s) at the agency that are notifying OGE of the referrals;
  - c. Whether the organizational unit(s) responsible for these actions are aware of the requirement to notify OGE of such referrals;
  - d. Whether the organizational unit(s) which notify OGE of the referrals use the "Notification of Conflict of Interest Referral" form (OGE Form 202); and
  - e. If more than one organizational unit is involved in either making the referral to the Department of Justice or concurrently notifying OGE, whether the agency has considered having only one unit responsible for each requirement or both requirements.
2. Through discussions with appropriate officials and a review of any pertinent documents, ensure that the disposition of any such referrals (e.g., indictment, information filed, prosecution declined, disciplinary or corrective action initiated, etc.) has been promptly reported to OGE in accordance with 5 C.F.R. § 2638.603(c).

**R. Acceptance of gifts under a separate department or agency gift acceptance authority.**

1. Determine whether the department or agency has a separate gift acceptance authority and, if so, obtain copies of the authorizing statute and any implementing regulation and internal policy.
2. Determine whether there is a limit on which employees, on behalf of the department or agency, can utilize the gift acceptance authority.
3. Determine whether or not the statute or any implementing regulation or internal policy prohibits employees, on behalf of the department or agency, from:
  - a. Soliciting gifts generally; or
  - b. Accepting gifts from prohibited sources which raise real or apparent conflicts of interest.
4. Determine whether the department or agency maintains a record of the authorizations/acceptances of such gifts and, if so, select a sufficient judgmental sample of the authorizations/acceptances for the previous calendar year to make the determinations in I.R.5. below.
5. Through discussions with ethics officials and a review of the authorizations/acceptances, determine whether such gifts:
  - a. Have been solicited in violation of the authorizing statute or any implementing

regulation or internal policy (or, in the absence of any such prohibition, in violation of 41 C.F.R. § 304-1.2(b));

- b. Have been accepted from a prohibited source which raises a real or apparent conflict of interest in violation of the authorizing statute or any regulation or internal policy (or, in the absence of any such prohibition, in violation of the substantive restrictions in II. below);
- c. Could have been accepted under 31 U.S.C. § 1353; and
- d. Have otherwise been accepted in accordance with the authorizing statute and any implementing regulation and internal policy.

## **II. Compliance with Substantive Restrictions.**

Through a review of the reports and documents in I. above and discussions with ethics officials, assess whether or not there are any actual or potential violations of the substantive restrictions contained in the following statutes, regulations, and executive order, regardless of whether or not they have already been identified by the agency:

### **A. Criminal conflict of interest statutes.**

- 1. 18 U.S.C. § 203

2. 18 U.S.C. § 205
3. 18 U.S.C. § 207
4. 18 U.S.C. § 208
5. 18 U.S.C. § 209

**B. Other statutes.**

1. 5 U.S.C. § 4111 (Acceptance of contributions, awards, and other payments from 26 U.S.C. § 501(c)(3) organizations)
2. 5 U.S.C. § 7351 (Gifts to superiors)
3. 5 U.S.C. § 7353 (Gifts to Federal employees)
4. 5 U.S.C. app., §§ 501 et seq. (Government-wide limitations on outside earned income and employment) (except §§ 501(b) and 505(3)).
5. 31 U.S.C. § 1353 (Acceptance of travel and related expenses from non-Federal sources)
6. Ethics-related agency-specific statutes

**C. Executive orders.**

1. Part I of Executive Order 12674, as modified by Executive Order 12731
2. Executive Order 12834

**D. Regulations.**

1. 5 C.F.R. part 2635 (Standards of ethical conduct for employees of the executive branch)

2. 5 C.F.R. part 2636 (Limitations on outside employment and prohibition of honoraria) (except subpart b)
3. 5 C.F.R. part 2637 (Regulations concerning post-employment conflict of interest)<sup>6</sup>
4. 5 C.F.R. part 2639 (Interpretation of 18 U.S.C. § 209)<sup>7</sup>
5. 5 C.F.R. part 2640 (Interpretation of 18 U.S.C. § 208)
6. 5 C.F.R. part 2641 (Regulations concerning post-employment conflict of interest)<sup>8</sup>
7. 41 C.F.R. part 304-1 (Federal travel regulation; acceptance of payment from a non-Federal source for travel expenses)
8. Agency supplementary regulation prepared as an addendum to 5 C.F.R. part 2635

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<sup>6</sup>Except where an underlying statutory provision has been changed by revised 18 U.S.C. § 207 contained in the Ethics Reform Act of 1989, part 2637 remains persuasive concerning the interpretation of revised § 207.

<sup>7</sup>Part 2639 of 5 C.F.R. has not been published in the Federal Register.

<sup>8</sup>Part 2641 of 5 C.F.R., implementing revised 18 U.S.C. § 207 contained in the Ethics Reform Act of 1989, has not been published completely in the Federal Register.

### **III. Enforcement of Requirements and Restrictions.**

#### **A. Procedural requirements.**

Through discussions with ethics officials and a review of the reports and documents in I. above and any other pertinent documents, ensure that:

1. The agency has referred or is intending to refer for criminal prosecution any violations of 18 U.S.C. § 1001 (Fraud and False Statements--Statements or entries generally) in accordance with 28 U.S.C. § 535;
2. The agency has referred or is intending to refer for civil prosecution to the Department of Justice in accordance with 5 U.S.C. app., § 104(b) any knowing and willful falsification or any knowing and willful failure to file a report pursuant to section 102;
3. The agency has assessed or is intending to assess a filing fee of \$200 in accordance with 5 U.S.C. app., § 104(d) and 5 C.F.R. § 2634.704 against any individual who has filed a public report more than 30 days after the report is required pursuant to section 101; and
4. The agency has or is intending to take prompt and effective administrative action related to any violation of the procedural requirements in I.

above in accordance with 5 C.F.R. § 2638.203(b) (9) .  
Such administrative action may be either in lieu of  
or in addition to any other action taken by statute  
in III.A.1. through 3. above.

**B. Substantive restrictions.**

Through discussions with ethics officials and a review of  
the reports and documents in I. above and any other  
pertinent documents, ensure that:

1. The agency has referred or is intending to refer  
for criminal prosecution any violations of the  
criminal conflict of interest statutes in II.A.  
above to the Department of Justice in accordance  
with 28 U.S.C. § 535;
2. The agency has referred or is intending to refer  
for civil prosecution or injunctive relief any  
violations of the criminal conflict of interest  
statutes in II.A. above to the Department of  
Justice in accordance with 18 U.S.C. § 216;
3. Violators of any of the other statutes in II.B.  
above have been or will be subject to any  
penalties, etc. called for by statute; and
4. The agency has or is intending to take prompt and  
effective action--either in the form of  
disciplinary and/or corrective action--related to  
the violations in II. above in accordance with

5 C.F.R. § 2638.203(b)(9). Such administrative action may be either in lieu of or in addition to any other action taken by statute in III.B.1. through 3. above.

#### **IV. Overall Assessment of the Ethics Program.**

- A. Through discussions with ethics officials, determine how many employees at the agency worked in the ethics program during the previous calendar year on either a full-time or part-time basis.
- B. Through discussions with ethics officials, determine if there has been continuity in the administration of the ethics program over the last few years. For example, what turnover, if any, has occurred in the key ethics official positions over the last few years?
- C. Through discussions with officials assigned to the office of the IG (or officials assigned to a similar office in the absence of an IG), ensure that:
  - 1. Any information developed by the IG is reviewed by the DAEO to determine whether such information discloses a need for taking prompt corrective action to remedy actual or potential conflict of interest situations in accordance with 5 C.F.R. § 2638.203(b)(11); and



2. The services of the agency's IG are utilized by the DAE0 when appropriate, including the referral of matters between the DAE0 and the IG, in accordance with 5 C.F.R. § 2638.203(b)(12).
- D. Based on what was found in I., II., III., and IV.A., B., and C. above, assess whether or not the DAE0 and Alternate DAE0 are effectively coordinating and managing the ethics program in accordance with 5 C.F.R. §§ 2638.203 and 2638.702(a)(1).
- E. If such coordination and management in IV.D. above is less than effective, assess whether or not the agency head was effectively exercising personal leadership in establishing, maintaining, and carrying out the ethics program in accordance with 5 C.F.R. § 2638.202(a) and, as applicable, 41 C.F.R. § 101-6.1009(j).

#### **REPORTING FORMAT**

A team leader is to be assigned to all ethics program reviews and shall be responsible for the writing and assembling of the report. However, all staff members must recognize a high sense of personal responsibility for the quality of their work. Each person who works on an agency review and report, at whatever stage, must accept full responsibility for carrying out his or her functions and for the best results thereof. The person responsible for any part of the work should not release it to the next level until he

or she is convinced that it is accurate, complete, factual, and objective, and is willing to stand behind it as the best he or she can do.

The audience for OGE's review reports include the OGE Director and staff, the agency head, the DAEO, the IG, and, possibly later, Congressional and GAO staffs. The organization of each report should be tailor-made for the information to be reported and for the purpose to be served. OGE reports must be no longer than necessary to communicate our message.

The basic message or central unifying theme should give direction and purpose to everything else in the report. Every word, sentence, paragraph, and section should contribute to the effective communication of the basic message. All conclusions and recommendations must be supported by findings from the review process. While the reporting format may differ depending on the message to be sent, the standard reporting format should be developed as either a letter (short or long) or chapter report, with letters transmitting the report to the DAEO (chapter report only), the agency head, and the IG. The basic formats for reports and transmittal letters are as follows:

1. A short letter report (normally 1-3 pages) to the DAEO, signed by the Associate Director for Agency Programs and having no recommendations or addressing issues of little seriousness or complexity, should include:

- an opening paragraph citing OGE's review authority and the organizational elements reviewed;
  - one or more paragraphs summarizing our review findings; and
  - a conclusions and recommendation(s) section ending with a closing paragraph advising the DAEO to respond to OGE within 60 days concerning actions taken or to be taken on the recommendation(s) and of OGE's six-month follow-up review.
2. A long letter report (normally 4-10 pages) to the DAEO, signed by the Director and addressing issues of relative seriousness or complexity, should include:
- an opening paragraph citing OGE's review authority and the organizational elements reviewed;
  - a short section on prior OGE reviews;
  - one or more sections (with subsections, as necessary) on our current review findings;
  - a conclusions section;
  - a recommendation(s) section; and
  - a closing paragraph advising the DAEO to respond to OGE within 60 days concerning actions taken or to be taken on the recommendation(s) and of OGE's six-month follow-up review.
3. A chapter report (normally 11 or more pages and accompanied by a long transmittal letter signed by the Director) to the DAEO, addressing issues of relative

seriousness or complexity which cannot be accommodated in a long letter, should include:

- a chapter citing OGE's review authority and the organizational elements reviewed, OGE's prior reviews, and the objective, scope, and methodology used to conduct the review;
- a chapter on the administration of the agency's ethics program;
- a chapter on the public financial disclosure system;
- a chapter on the confidential financial disclosure system;
- a chapter on the ethics advice and counseling given by agency ethics counselors;
- a chapter on the ethics education and training activities of the agency; and
- a chapter on OGE's findings (summarized), conclusions, and recommendation(s).

4. Long transmittal letters to the DAEO (chapter report only) and agency head (chapter and long letter reports), signed by the Director and enclosing a copy of the report sent to the DAEO, should include:

- an opening paragraph;
- one or more paragraphs summarizing our review findings and recommendation(s) (more detail should

be provided in the transmittal letter to the DAEO than in the letter to the agency head); and

- a closing paragraph (for chapter reports only the DAEO should be advised to respond to OGE within 60 days concerning actions taken or to be taken on the recommendation(s) and of OGE's six-month follow-up review).

5. A short transmittal letter to the IG, signed by the Associate Director for Agency Programs (short letter report only), or by the Director (long letter and chapter reports), and enclosing a copy of the report sent to the DAEO.

OGE's reports should be accurate, complete, concise, and objective. OGE's arguments for change should be logical, persuasive, and based on demonstrated need. The demonstrated need may be to comply with a statute, executive order, regulation, procedure, etc. or simply to exercise common sense. The burden of proof is on OGE, not the agency. The tone of OGE's reports should be designed to encourage favorable reaction to its findings and recommendations. Any agency arguments against OGE's recommendations should be set forth in the report. OGE's conclusions and recommendations must follow logically from the facts presented.

All of the prescribed review and report preparation procedures must be applied with the objective of producing reports that

contain no errors of fact, logic, or reasoning. One inaccuracy in a report can cast doubt on the validity of an entire report and divert attention from the substance of the report. One's professional reputation and that of OGE is at stake. All factual data, findings, and conclusions in OGE's reports must be adequately supported by enough objective evidence in the working papers to demonstrate the bases for the recommendations. The team leader is responsible for ensuring that all of the working papers are prepared and maintained completely following each review.

#### **FOLLOW-UP**

One of the most important aspects of OGE's work is the completion of the follow-up review and the preparation of the follow-up report. The Assistant to the Chief of the Program Review Division is responsible for ensuring that:

1. The DAEO responds to OGE's report recommendations within 60 days from the date of the report.
2. A follow-up review six months from the date of the report is conducted to determine whether the agency has taken adequate and effective action on each of the recommendations.
3. Based on the agency's 60-day response and the follow-up review, an internal report is prepared outlining what has been done on each specific recommendation contained in

the agency review report, including a determination of the status of each recommendation (i.e., closed, or open with more follow-up work required).

Just because an agency plans to do what OGE has recommended does not mean the recommendation is closed. OGE must follow through to ensure that the plan has actually been implemented. This may require further follow-up work to document certain actions the agency has taken.